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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

882.0004.U1(US)

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Signature

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Application Number

10/600,156

Filed

6/19/2003

First Named Inventor

Hemant Chaskar

Art Unit

2666

Examiner

Duong, Frank

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☐ attorney or agent of record.
Registration number _____☒ attorney or agent acting under 37 CFR 1.34.Registration number if acting under 37 CFR 1.34 59,071

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August 21, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE U.S. PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:

APPLICANTS: Chaskar et al.

SERIAL NO.: 10/600,156

FILING DATE: 06/19/2003

EXAMINER: Duong, Frank

ART UNIT: 2666

ATTORNEY'S DOCKET NO.: 882.0004.U1(US)

TITLE: METHOD AND APPARATUS FOR PERFORMING INTER-TECHNOLOGY
HANDOFF FROM WLAN TO CELLULAR NETWORK

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PRE-APPEAL BRIEF REQUEST FOR REVIEW ATTACHMENT

The following is a concise recitation of a clear error in the Examiner's rejections in this application.

Claims 1-43 are pending. Claims 1 and 27 were rejected under 35 U.S.C. 102(b) as being anticipated by Xu et al. ("Mobile IP Based Micro Mobility Management Protocol in The Third Generation Wireless Network," Internet Draft, pp. 1-16, November 2000). Claims 1-6, 23, 26-28, 31-34, 37-40, and 42-43 were rejected under 35 U.S.C. 102(e) as being anticipated by Purnadi et al. (U.S. Patent No. 6,708,031). Claims 7-22, 24-25, 29-30, 35-36, and 41 were rejected under 35 U.S.C. 103(a) as being unpatentable over Purnadi et al. in view of Malki et al. ("Low Latency Handoff in Mobile IPv4," Internet Draft, pages 1-65, May 2001).

In rejecting the claims, the Examiner repeatedly mischaracterizes CDMA2000, and cellular systems in general, as a wireless local area network (WLAN) technology. See Office Action of October 24, 2005, pp. 3 and 5; Final Office Action of March 21, 2006, pp. 13-14 and 15; Advisory Action of July 6, 2006, p. 2. The Examiner further alleges that Mobile IP is a WLAN technology and, thus, that Xu et al., Purnadi et al. and Purnadi et al. in view of Malki et al. anticipate the claims of the present application. See Final Office Action of March 21, 2006, pp. 13-14.

The Merriam-Webster Online Dictionary, in the third definition for "cellular," states: "of, relating to, or being a radiotelephone system in which a geographical area (as a city) is divided into small sections each served by a transmitter of limited range." The Compact Oxford English Dictionary, in the second definition for "cellular," states: "relating to a mobile telephone system that uses a number of short-range radio stations to cover the area it serves." These definitions parallel the definition of cellular systems and technology as understood by one of ordinary skill in the art, with CDMA and CDMA2000 being but two examples thereof.

The Webopedia Computer Dictionary defines "WLAN" as: "A type of local-area network that uses high-frequency radio waves rather than wires to communicate between nodes." The Webopedia Computer Dictionary further defines "local-area network" as: "A computer network that spans a relatively small area. Most LANs are confined to a single building or group of buildings." This, too, parallels the definition of WLAN as understood by one of ordinary skill in the art. The Webopedia Computer Dictionary, for examples of WLAN standards, further offers: 802.11, 802.11a/b/g, 802.16, 802.16a, Bluetooth, HomeRF, HiperLan I/II and OpenAir.

The Webopedia Computer Dictionary defines "Mobile IP" as:

A standard that allows users with mobile devices whose IP addresses are associated with one network to stay connected when moving to a network with a different IP address.

When a user leaves the network with which his device is associated (home network) and enters the domain of a foreign network, the foreign network uses the Mobile IP protocol to inform the home network of a care-of address to which all packets for the user's device should be sent.

As is apparent, cellular technology and WLAN technology refer to two different types of networks that, generally speaking, cover two relatively different geographical areas with a WLAN spanning a relatively small area and a cellular network spanning a relatively large area. Furthermore, Mobile IP refers to an established protocol developed by the Internet Engineering Task Force (IETF).

In the Response to Arguments section on pages 13-14 of the Final Office Action dated March 21, 2006, the Examiner stated:

Mobile IP is the most relevant WLAN technology and it is disclosed in the instant application. Mobile IP must have all the functionalities or elements of a mobile host (MH), a home agent (HA), a foreign agent (FA) and a corresponding host (CH). There is no doubt that Su's system, as clearly pointed out in the Office Action, is the WLAN because all of the above functionalities or element are disclosed and incorporated in the Su's system (*see Fig. 1 and pages 3-4 of Su reference*). Thus, Examiner asserts the interpretation of Xu reference is exact to that claimed by the Applicants of the instant application.

On page 2 of the Advisory Action dated July 6, 2006, the Examiner stated:

Mobile IP technology to include Sony, Columbia and IBM systems emerged in the early ninety. On the other hand, WLAN technology to include 802.11b, 802.11a/g/e, HiperLAN I/II, Bluetooth, 802.15, 802.16 and HomeRF emerged in the late ninety and they evolved from or integrated with Mobile IP technology. Therefore, examiner's characterization is reasonable and just.

Although Mobile IP may involve elements such as a MH, a HA, a FA and a CH, since Mobile IP is a protocol it cannot be defined exclusively by the presence of those four elements. To define Mobile IP in such a manner, as a system "hav[ing] all the functionalities or elements of a mobile host (MH), a home agent (HA), a foreign agent (FA) and a corresponding host (CH)," as the Examiner does, is erroneous.

Furthermore, the Examiner implicitly equates Mobile IP to a WLAN by incorporating the Examiner's alleged definition for Mobile IP into a definition for WLAN. Although Mobile IP can be employed with respect to a WLAN, the two are distinctly different entities. As noted above, Mobile IP is a type of protocol while WLAN refers to a type of network.

On page 2 of the Advisory Action dated July 6, 2006, the Examiner also stated:

In addition, the above WLAN technology is also based on spread spectrum multiple access to include direct sequence or frequency hopping. Moreover,

spread spectrum multiple access is commonly known as CDMA. CDMA2000 is the evolution of the old CDMA to support higher data rates as well as scalability with other cellular technology to include GSM, GPRS, TDMA and WCDMA.

Here, the Examiner is equating WLAN to CDMA by stating that they are both based on spread spectrum multiple access. This is a gross mischaracterization of the technologies. A WLAN need not be based on spread spectrum multiple access. Furthermore, CDMA and CDMA2000 are clearly not LAN-based technologies.

As an example, claim 1 of the present application recites in part: "A method to perform a low latency inter-technology handoff of a mobile node (MN) from a wireless local area network (WLAN) to a cellular network..." Thus, the definition and distinctions between a WLAN and a cellular network are significant in the context of the present application. Furthermore, the present application, at page 1 of the Specification, supports distinguishing between the two terms.

Xu et al, in the Abstract section, state: "This document defines extensions to the Mobile IP protocol to allow mobility management for the interface between a radio network and a packet data network **in the third generation cdma2000 network**" (emphasis added).

Significantly, it can be seen that Xu et al. only relates to a cellular network (CDMA2000). Thus, even if Xu et al. were to discuss handoffs, such discussion would be within a cellular network and not "a low latency inter-technology handoff of a mobile node (MN) from a wireless local area network (WLAN) to a cellular network," as recited in claim 1, for example. Therefore, Xu et al. cannot be seen to anticipate claims 1 and 27.

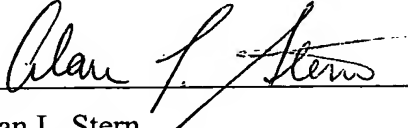
Although Purnadi et al., in the Abstract, state: "A new session or handoff procedure is triggered for a mobile station in a communications network having a packet switched network connected to a wireless network," Purnadi et al. do not disclose or suggest performing a low latency inter-technology handoff of a MN from a WLAN to a cellular network. Purnadi et al. cannot be seen to anticipate the claims of the present application.

Malki et al. also do not disclose or suggest performing a low latency inter-technology handoff of a MN from a WLAN to a cellular network. Because Purnadi et al. do not disclose or suggest a method to perform a low latency inter-technology handoff of a MN from a WLAN to a cellular network, as claimed in claim 1 of the present application, for example, and Malki et al. do not teach this (and the Examiner does not assert that Malki et al. teach this), then the proposed combination cannot be seen to render obvious the claims of the present application.

The Examiner's rejections of the claims based on the cited prior art are entirely founded on incorrect definitions and mischaracterizations of the technologies involved. As known to one of ordinary skill in the art, a WLAN is distinctly different from a cellular network. Furthermore, Mobile IP, as a protocol, does not necessarily relate to either WLAN technology or cellular technology. Because the Examiner's erroneous definitions and mischaracterizations form the basis for the rejections, the rejections are clearly improper.

For at least the above reasons, independent claim 1 is patentable over the cited references. Independent claims 27, 33, 38 and 43 are directed to substantially similar subject matter and are therefore also patentable. Consequently, dependent claims 2-26, 28-32, 34-37 and 39-42 are patentable based at least on their dependency from allowable independent claims. The Applicants respectfully request that the rejections of claims 1-43 be withdrawn.

Respectfully submitted:


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8/21/06
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